



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCIO
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Andrea Lani, Bureau of Air Quality
DATE: May 1, 2008
RE: Final Adoption of Chapter 157, CO2 Budget Trading Program Waiver and Suspension

.....
Statutory and Regulatory Reference:

A Statutory authority

38 MRSA Section 585-A provides that the Board of Environmental Protection "may establish and amend regulations to implement ambient air quality standards and emission standards. These regulations shall be designed to achieve and maintain ambient air quality standards and emission standards within any region and prevent air pollution."

B Specific legal mandates requiring adoption

PL 2007 c. 317 requires the Department to adopt major substantive rules to implement a waiver of enforcement and suspension of compliance obligation component of the CO2 Budget Trading Program.

Location/Applicability:

The proposed regulation will apply statewide.

Description:

The proposed Chapter 157 provides the Commissioner the authority to temporarily waive enforcement of the CO2 Budget Trading Program in cases where the price of allowances would cause immediate and irreparable harm to a CO2 Budget Unit and to temporarily suspend compliance obligations in the case of an emergency event.

On November 1, 2007, the Board of Environmental Protection held a public hearing on the Department's proposed Chapter 157 CO2 Budget Trading Program Waiver and Suspension regulation. During the public hearing and subsequent comment period, the Department received comments from eight interested parties. The commenters urged the Department to make the process for granting waivers to be a more transparent and public process, pointed out that a consultation process with the PUC and AG

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX (207) 287-7826
RAY BLDG, HOSPITAL ST

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX (207) 941-4564

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-0477 FAX (207) 760-3143

is required by statute but missing from the rule, and suggested a number of other changes. The Department revised the rule where appropriate.

The Board of Environmental Protection provisionally adopted the Department's revised version of Chapter 157 on December 6, 2007. On March 25, 2008, the 123rd Legislature passed LD 2164, Resolve Regarding Legislative Review of Chapter 157 with no changes, authorizing final adoption of Chapter 157. The Governor signed the resolve on March 31, 2008. Because the Legislature passed LD 2164 as an emergency resolve, it became effective immediately.

Environmental Issues:

Global climate change resulting from human activity, namely the burning of fossil fuels which increase the concentration of carbon dioxide in the atmosphere, poses a direct and immediate as well as long-term threat to public health, safety and welfare. Increasing global temperatures are predicted to lead to, among other things, increased frequency and severity of droughts, storms and floods, melting of glaciers, ice sheets and the polar sea-ice, raising sea levels to cover shoreline and low-lying land, increase in infectious diseases, changes in distribution and abundance of native tree, plant and animal species, disruption of forestry, agriculture and recreational industries. Chapter 156 is intended to reduce emissions of carbon dioxide from large power producers in the state through the establishment of a cap-and-trade program which will operate on a regional scale.

Departmental Recommendation:

The Department recommends that the Board adopt the proposed regulation as revised.

Estimated Time of Presentation:

15 minutes